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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.203 OF 2005

Philip Fu and another ... Petitioners
versus
M/s.Vegas Co-op.Hsg.Soc. Ltd. ... Respondent

Mr.J.M.D'Silva for petitioners.

CORAM : A.S.OKA, J.

DATE : 25th June 2007

PC :

1. I have heard submissions of the learned advocate appearing for the petitioner on the last date as well as today. The contempt which is alleged in this petition is of order dated 4th March 2005 passed by the learned President of the Maharashtra State Co-operative Appellate Court. By the said order, in a revision application filed by the petitioners, the first and second respondents herein were directed to repair the pipelines from the terrace to the ground and drainage around the flats. It is alleged in the petition that the first and second respondents have not complied with the said order.

2. The first respondent is a co-operative housing society and the second respondent is the Secretary to the first respondent society. It is not in dispute that the second respondent and other office bearers of the first respondent society have tendered their resignations. It is also not in dispute that an Administrator has been appointed who has taken charge in May 2007. In this contempt petition another order passed by the Co-operative Court dated 22nd December 2004 has been annexed. By the said order, the second respondent has been restrained from collecting the maintenance, water and other charges from the petitioners. The said order has been passed on the basis of a prima facie finding that the second respondent was collecting the money from the petitioners under the guise of maintenance and water charges without there being any resolution to that effect passed by the first respondent society. Thus, the second respondent who is impleaded in this petition in his capacity as Secretary, was restrained from collecting maintenance, water and other charges from the disputants i.e. the present petitioners. It is not in dispute that the second respondent was the Secretary and he was impleaded in the revision application before the Co-operative Appellate

Court in his capacity as the Secretary. There is an order passed by the Co-operative Court which restrains the second respondent from collecting the maintenance charges. The second respondent has admittedly resigned. The second respondent was not the only member of the Managing Committee. Therefore, this is not a fit case for taking action against the respondents under the Contempt of Courts Act, 1971. As stated earlier the entire Managing Committee has resigned and the first respondent society is now represented by an Administrator.

3. It is always open for the petitioners to approach the Administrator of the first respondent society with a copy of the order passed by the Co-operative Appellate Court. If the said order of the Appellate Court is in force, the Administrator is bound to act upon the said order and is bound to ensure that necessary work is carried out if not carried out till today.

4. Subject to what is stated above notice issued to the respondents is discharged. Contempt Petition is disposed of.

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(A.S.OKA, J.)